

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD KLINE, SR., LINDA KLINE, )  
and IRREONA BYRD, on behalf of themselves )  
and all others similarly situated, )  
Plaintiffs, )

v. )

Case No. 4:21-cv-11272-NGE  
Hon. Nancy G. Edmunds

FISHMAN GROUP PC, RYAN FISHMAN, )  
MARC FISHMAN, ALEXANDRA ICHIM, )  
FENTON OAKS, LLC dba FENTON OAKS )  
MHC, and PROFESSIONAL PROPERTY )  
MANAGEMENT CO. OF MICHIGAN dba )  
PROFESSIONAL PROPERTY )  
MANAGEMENT INC., )  
Defendants. )

**DEFENDANT FENTON OAKS. LLC dba FENTON OAKS**  
**MHC'S CONCURRENCE WITH DEFENDANT PROFESSIONAL PROPERTY**  
**MANAGEMENT CO. OF MICHIGAN'S MOTION TO DISMISS**

NOW COMES Defendant, FENTON OAKS, LLC dba FENTON OAKS MHC, by and through its attorneys, Swistak & Levine, P.C., and for its Concurrence with Defendant Professional Property Management Co. of Michigan's Motion to Dismiss, states as follows:

Defendant Fenton Oaks LLC ("Fenton") operates a manufactured housing community in Genesee County, Michigan. Defendant Professional Property Management Co of Michigan ("PPM") manages various apartment communities. Fenton and PPM are almost identically-situated in this case in that both of them hired Defendant Fishman Group, PC ("Fishman") to pursue the collection of debts owed from prior tenants who moved from their respective properties.

Like PPM, Fenton sent its few collection cases to Fishman for Fishman to file lawsuits to try to collect money owed to Fenton. Fishman filed suit against Plaintiffs Donald Kline, Sr. and Linda Kline

(the “Klines”) on behalf of Fenton but Fenton never received any money from Fishman’s efforts. (See Affidavit of Bill Packer, attached as Exhibit 1)

Regardless, the Klines owed Fenton the amount of \$1,444.21 and still today, the Klines owe Fenton the amount of \$1,444.21. (*Id.*) But since Fenton did not receive any of the Klines’ money, Fenton could not have been unjustly enriched or converted any of the Klines’ funds.

Fenton was also not negligent as a matter of law. Fenton performed no oversight of how Fishman performed its work. Fenton hired Fishman as its attorneys to pursue collection efforts in an appropriate and legal manner. If Fishman violated the law or rules of professional conduct, it did so without Fenton’s knowledge or permission.

PPM filed a motion to dismiss this case as to PPM. For all of the same legal and factual reasons, which PPM expressed in its motion, Fenton seeks the same result.

WHEREFORE, Defendant FENTON OAKS LLC dba FENTON OAKS MHC urges this Honorable Court to refuse to exercise supplemental jurisdiction over Fenton Oaks LLC and to dismiss this action as to Fenton Oaks LLC.

SWISTAK & LEVINE, P.C.  
Attorneys for Defendant Fenton Oaks only

/s/ I. Matthew Miller  
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DATED: July 12, 2021

# **EXHIBIT 1**

**AFFIDAVIT OF BILL PACKER**

**BILL PACKER**, being duly sworn, deposes and states as follows:

1. He is a member of, and the owner of, Fenton Oaks, LLC ("Fenton Oaks").
2. If called to testify as a witness, he could testify competently to the following facts:
  - A. Fenton Oaks sent five collection cases to the Fishman Group.
  - B. One of these cases was against Donald Kline, Sr. and Linda Kline (the "Klines").
  - C. The Klines owe Fenton Oaks \$1,444.21 from costs associated with their having moved from Fenton Oaks.
  - D. Neither I nor anyone else associated with Fenton Oaks had any oversight or supervision over the Fishman Group in how they pursued collection of the debt owed by the Klines or the debts owed by any other debtor.
  - E. Fenton Oaks has not received any funds collected from the Klines, nor from any other of the four collection cases Fenton Oaks sent to the Fishman Group.
  - F. Until I saw the story on the television news, I had no idea of any of the allegations directed against the Fishman Group nor did Fenton Oaks, LLC have any involvement in, or direction of, any of the allegedly illegal or improper activities.

Further, Deponent says not.

  
**BILL PACKER**

Subscribed and sworn to before me this  
7<sup>th</sup> day of July, 2021

  
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Notary Public, ~~Genesee~~ County, Michigan  
My Commission Expires: Aug 24<sup>th</sup> 2024